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October 30, 2012

Via ECF

Honorable Judge Christopher A. Boyko
United States District Judge
U.S. District Court for the Northern District of Ohio
Carl B. Stokes United States Courthouse
801 W. Superior Avenue, Courtroom 15B
Cleveland, OH 44113-1843
Phone: (216) 357-7151

Re: *WAGO Verwaltungsgesellschaft mbH v. Rockwell Automation, Inc.*
Case No. 1:11cv756 (N.D. Ohio)

Dear Judge Boyko:

As you know, we represent defendant Rockwell Automation, Inc. (“Defendant”) in the above captioned action. We write to correct a misstatement about the appearance (or non-appearance) of clients at the case management conference that was made by plaintiff Wago Verwaltungsgesellschaft mbH’s (“WVG”) lead counsel, Jay Campbell, at last Friday’s Case Management Conference (“CMC”). As the Court knows, our client flew into Cleveland and was available to the Court and the plaintiff. WVG was not there.

On September 19, 2012, the Court issued a notice scheduling the CMC to be held on October 5, 2012. See Dkt. 56. The Court’s notice requires that “**LEAD COUNSEL AND ALL PARTIES MUST BE PRESENT IN PERSON.**” *Id.* (emphasis in original). On September 21, 2012, counsel for Rockwell informed counsel for plaintiff WVG that Rockwell’s counsel was unavailable for the CMC on October 5, 2012 and requested only that the CMC be rescheduled for October 26, 2012. WVG opposed and as a result, Rockwell submitted a motion requesting the aforementioned adjournment. In support of that motion, Rockwell submitted a memorandum which highlighted the fact that “[t]he Court’s notice requires that ‘**LEAD COUNSEL AND ALL PARTIES MUST BE PRESENT IN PERSON.**’” Dkt. No. 58 at 1 (emphasis in original).

On October 2, 2012, the Court ordered that the CMC be adjourned until October 26. The only change from the original order was the date. The new Order stated:

“**Order** [non-document] granting Defendant’s Motion to reschedule conference (Related Doc # [57](#)); case management conference reset to be

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held on 10/26/2012 at 01:30 PM at Chambers 15B. Judge Christopher A. Boyko on 10/2/2012. (H,CM) (Entered: 10/02/2012).”

Accordingly, all counsel and parties were still ordered to be present and Rockwell complied with the order at the expense of travel and lodging. At the CMC last Friday, when we raised the issue of WVG’s non-appearance with the Court, the Court addressed WVG’s counsel and asked whether WVG had moved for an excuse from appearing at the CMC as required by the Order. WVG’s counsel responded that the Court’s Order rescheduling the CMC stated that only counsel needed to be present at the CMC. We were puzzled with the answer that did not conform to our memories, but accepted it as we did not have access to the docket.

After the CMC concluded, Rockwell had the opportunity to review the text of the Order referenced by WVG’s counsel and can confirm that it does not state what WVG’s counsel had represented to the Court. The only change was to the date of the CMC and, so, Rockwell counsel and clients obeyed the Order at their expense. No doubt, more could have been achieved had both parties been present or the inconvenience to one party could have been avoided had WVG indicated it would not attend.

We are writing this letter to correct the "record" of this incident because it was not right for WVG not to be present and it was not right to explain that absence on the Court's Order.

Respectfully,

/s/ Abbe David Lowell

Abbe David Lowell
Counsel for Defendant
Rockwell Automation, Inc.

Cc: Via ECF

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